



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 6516-99
17 February 2000

GYSC [REDACTED] USMC
[REDACTED]
[REDACTED]
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of the contested reviewing officer comments from your fitness report for 1 April to 28 August 1997.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 15 October 1999, and the advisory opinion from the Marine Corps Combat Development Command, Grounds Training Branch, dated 14 December 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB and the advisory opinion from the Grounds Training Branch. Specifically regarding the contested fitness report for 2 December 1996 to 31 March 1997, they were unable to find that your reporting senior did not observe your performance enough to provide a valid appraisal, noting that block 18 shows the report was based on "daily" observation, and further noting that observation need not be direct. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures

6516-99



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
OCT 15 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED] USMC

Ref: (a) GySgt [REDACTED] DD form 149 of 23 Jul 99
(b) MCO P1610.7D w/Ch 1-2
(c) MCO P1610.7D w/Ch 1-3

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 13 October 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Action as indicated was requested on the following fitness reports:

a. Report A - 961202 to 970331 (CH) -- Removal in its entirety. Reference (b) applies.

b. Report B - 970401 to 970828 (TR) -- Removal of the Reviewing Officer's comments. Reference (c) applies.

2. The petitioner, in addition to the challenges identified in paragraph one above, also asks that all information regarding weight control be corrected or completely removed from his records. Concerning Report A, the petitioner alleges that the report is "marginal at best" and was written by an officer not in his chain of command. He challenges the mark of "Be Glad" in Item 16 and offers his opinion that the mark "destroyed" him. He also believes that Captain [REDACTED] (the Reporting Senior) showed "favoritism" to his own staff noncommissioned officers, and in so doing, rendered Report A "marginal." With regard to Report B, the petitioner argues the Reviewing Officer's comments are procedurally flawed and substantially inaccurate; further, that the Reviewing Officer had insufficient time to form a fair and accurate evaluation.

3. In its proceedings, the PERB concluded that:

a. On both reports, statements concerning the petitioner's height and weight were required by the applicable directives. Therefore, his request for the elimination of any information concerning that issue is considered without merit. With specific regard to Report B, the Reporting Senior's comment that the

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
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petitioner had been approved for an alternate weight is a documented matter of fact -- nothing more or less.

b. Report A is both administratively correct and procedurally correct as written and filed. The Board is hasty to observe that when the petitioner signed Item 22 of Report A, he attested to the accuracy of the information contained in Section A. That information includes, but is certainly not limited to, designation of the correct Reporting Senior of record. We also point out that Captain [REDACTED] completed a change of Reporting Senior (CH) fitness report on the petitioner prior to Report A, signifying that he was no longer the Reporting Senior. Finally, the Board concludes that the petitioner's allegation of bias on the part of the Reporting Senior is totally without merit or substantiation.

c. The removal of the Reviewing Officer's comments appended to Report B is warranted and has been directed.

4. The Board's opinion, based on deliberation and secret ballot vote, is that Report A should remain a part of Gunnery Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED] EN
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



UNITED STATES MARINE CORPS
MARINE CORPS COMBAT DEVELOPMENT COMMAND
QUANTICO, VIRGINIA 22134-5001

IN REPLY REFER TO:

1500
C461
14 Dec 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
[REDACTED] USMC

Ref: (a) [REDACTED] DD Form 149 of 23 Jul 99
(b) MCO 1600.10B w/ch 1-4, "Weight Control and Military Appearance"
(c) [REDACTED] [REDACTED] ex (SSN: [REDACTED]) of 15 Dec 98
(d) Enclosure (3a), "Consultation Sheet Medical Record/Standard Form 513E (Rev. 892) [REDACTED] Tripler Army Medical Center"

1. The subject request to remove the weight control assignment entries per ref (a) is not supported. The following comments are provided:

a. ██████████'s assignment to weight control in 1994 was within ref (b) guidelines.

b. The 1998 medical report finding in ref (c), identifying "Hypothyroidism", *does not support* SNM's claim that there was a correlation to his weight gain. Rather, the report stated that in ██████████ case, Hypothyroidism resulted in "shrinkage and mild fibrosis" to the neck region, and "may have adverse effects on body fat measurements that rely on neck measurements...". The report suggests problems related to body fat measurements; not weight gain.

c. Although [REDACTED] was assigned to weight control in 1994, he *did receive* an Alternate Weight Waiver in December of 1996, apparently without adverse affects from his body fat measurement, as projected in ref (c). Per ref (d), SNM stated that the Hypothyroidism condition, "...causes a person to gain weight." However, the reference did not specify a correlation to weight gain.

2. ██████████ 1994 weight control assignment was procedurally correct. Accordingly, his request to remove the weight control assignment entries is not supported.

3. Training and Education Division POC is [REDACTED]

Head, Grounds Training Branch